IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 468 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/02/2005 in WP NO : 22406 OF 2004 on the file of the High Court.)

Between:

A.Shanmukha Chari, S/o.A.Veeraiah,
Pileru Grama Panchayat, Pileru, Kusumanchi Mandal,
Khammam District.

..... APPELLANT

AND

1 Govt. of A.P., rep. by its Prl. Secretary, Panchayat Raj & RD Opts.II, Department, Hyderabad.
2 The District Collector, Khammam Dist.Khammam.
3 The District Panchayat Officer, Khammam District, Khammam.
4 B.Anjaiah, S/o.Pedasanjeevaiah,
Gram Panchayat, Paleru of Khammam Dist.
5 Smt. B.Lakshmi, W/o.Lalu,
Gram Panchayat, Paleru Khammam Dist.

6 Smt. G.Mangamma, W/o.Venkulu,
Gram Panchayat, Paleru, Khammam Dist.
7 Smt.T.Karuna, W/o.Narasaiah,
Gram Panchayat, Paleru, Khammam District.
8 Smt. T.Yellamanchamma, W/o.Pentaiah,
Gram Panchayat, Paleru, Kahammam Dist.
9 Smt.Subadra, W/o.Koriveeraiah,
Gram Panchayat, Paleru, Khammam District.

(Respondents 4 to 9 impleaded as per court order dt. 2-2-2005 in W.P.M.P. 168 of 2005).

.....RESPONDENTS

Counsel for the Appellant : MR.G.VIDYASAGAR

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the respondent Nos. 4 to 9: MR. KOWTURU VINAYKUMAR.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Challenge is to the order passed by the learned single Judge dismissing the writ petition of the appellant. Appellant is the Sarpanch of Gram Panchayat, Palair, Kusumanchi Mandal, Khammam District. While occupying the said office, he is alleged to have misappropriated the amount and committed several irregularities. As per the enquiry report of Divisional Panchayat Officer, Khammam, dated 30.06.2004, show-cause notice under Section 249(6) of the A.P. Gram Panchayat Raj Act, 1994, (for short 'the Act')

was served upon him calling him to submit explanation within 15 days. On receipt of the explanation, the same was duly considered by the Divisional Panchayat Officer, Khammam, who, after taking into consideration all relevant records, submitted a report on 04.10.2004 and recommended to take further action as per the show-cause notice. On receipt of such report, the Collector, by his order dated 18.10.2004, passed order suspending the petitioner in exercise of power under Section 249(6) of the Act. This order was challenged by the petitioner in revision before the State Government. State Government in its turn dismissed the same, which was challenged by the petitioner in the writ petition. Initially the order of suspension was kept in abeyance, but ultimately writ petition was dismissed on the ground that there was no scope for interference in such like maters.

2 . Learned counsel for the appellant submits that the Collector did not consider the petitioner's explanation and proceeded to pass the order of suspension in a mechanical manner without application of mind and without assigning any reasons as envisaged by the decision of the Supreme Court reported in **S.N. MUKHERJEE Vs. UNION OF INDIA (1)**. It is also submitted by him that Government has also likewise dismissed the revision and while dismissing the same has issued directions which are likely to cause prejudice to the appellant because the directions are to remove him and recover misappropriated amounts, which cannot be done without following due process of law.

3 . We have examined the entire record. Collector in his order dated 18.10.2004 has expressly stated that explanation is considered and rejected. Therefore, petitioner – appellant was placed under suspension. Needless to add that charges against the

(1) AIR 1990 SC 1984.

petitioner, as per the show-cause notice dated 25.08.2004, for misappropriation of funds and irregularities are serious in nature. Thus suspension of a Sarpanch under Section 249(6) of the Act is pending investigation into the charges and action thereupon, and the statute itself puts a limit as regards period of suspension for three months which can only be extended by another three months by order of the State Government. There cannot be any further extension to this period. In such like matters, it would be sufficient for the authorities to see that the enquiry is completed within the prescribed period. Under these circumstances, the order putting the petitioner – appellant under suspension was passed after the authority concerned had considered the explanation and the report submitted by the Divisional Panchayat Officer on the basis of the show-cause notice issued to the petitioner narrating therein the charges and the explanation. We are of the view that these reasons alone would suffice and no further reasons would be required to be stated in such an order and there cannot be any interference with such an order on judicial side inasmuch as the order of suspension cannot be considered to be punitive in nature. Suspension is only pending enquiry and validity period of suspension is limited one for three months extendable by three months by the State Government. Therefore, learned single Judge was justified in not interfering with such order.

4. No doubt the State Government has while dismissing the revision issued certain directions. But we would like to clarify the directions issued by the State Government that removal of the petitioner – appellant as Sarpanch and recovery proceedings can only take place in accordance with law on proof of the charges against the petitioner in a duly constituted enquiry as envisaged under the provisions of the Act. With this clarification, we dismiss the appeal. No costs.

DEVINDER GUPTA. C.J.,

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B. SESHASAYANA REDDY. J.,

Dated: 17.03.2005.

VRK.

To

1 The Prl. Secretary to Govt., Panchayat Raj
& RD Opts.II Department, Hyderabad.
2 The District Collector, Khammam Dist.,Khammam.
3 The District Panchayat Officer, Khammam District,
Khammam.
4. Two CCs to G.P. for Panchayat Raj & Rural
Development, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

*Form-NIC-OGS/WA {**JA**}*

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE B. SESHASAYANA REDDY.

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W.A.NO. 468 OF 2005.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 17.03.2005.